



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB3829

Introduced 2/25/2005, by Rep. Cynthia Soto

SYNOPSIS AS INTRODUCED:

105 ILCS 5/10-20.21

from Ch. 122, par. 10-20.21

Amends the School Code. For competitive bids for service contracts involving an expenditure in excess of \$10,000, provides that the bidder must disclose, before the public bid opening, in an affidavit that becomes part of the bid, (1) any charges filed against the bidder within the past 10 years pursuant to the National Labor Relations Act, the Civil Rights Act of 1964, or the Illinois Human Rights Act, (2) any charges filed against the bidder within the past 10 years related to bid-rigging or bid manipulation, (3) any legal claims pending against the bidder, (4) all workplace injuries reported by employees within the past year, (5) all employee turnover, (6) any units of government that have barred the bidder or its affiliates from future bidding, (7) any contributions given to the political campaigns of school board members or any political action committee created with the purpose of affecting policies related to a particular school district or its students, (8) any gifts given to a prohibited recipient under the State Officials and Employees Ethics Act, and (9) any gifts or contributions given to non-profit organizations established with the purpose of affecting a particular school district or its students. Provides that if the affidavit contains false or incomplete information, the school district does not have to consider the bid. Effective immediately.

LRB094 08061 NHT 38245 b

1 AN ACT concerning education.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The School Code is amended by changing Section
5 10-20.21 as follows:

6 (105 ILCS 5/10-20.21) (from Ch. 122, par. 10-20.21)
7 Sec. 10-20.21. Contracts.

8 (a) To award all contracts for purchase of supplies,
9 materials or work or contracts with private carriers for
10 transportation of pupils involving an expenditure in excess of
11 \$10,000 to the lowest responsible bidder, considering
12 conformity with specifications, terms of delivery, quality and
13 serviceability, after due advertisement, except the following:
14 (i) contracts for the services of individuals possessing a high
15 degree of professional skill where the ability or fitness of
16 the individual plays an important part; (ii) contracts for the
17 printing of finance committee reports and departmental
18 reports; (iii) contracts for the printing or engraving of
19 bonds, tax warrants and other evidences of indebtedness; (iv)
20 contracts for the purchase of perishable foods and perishable
21 beverages; (v) contracts for materials and work which have been
22 awarded to the lowest responsible bidder after due
23 advertisement, but due to unforeseen revisions, not the fault
24 of the contractor for materials and work, must be revised
25 causing expenditures not in excess of 10% of the contract
26 price; (vi) contracts for the maintenance or servicing of, or
27 provision of repair parts for, equipment which are made with
28 the manufacturer or authorized service agent of that equipment
29 where the provision of parts, maintenance, or servicing can
30 best be performed by the manufacturer or authorized service
31 agent; (vii) purchases and contracts for the use, purchase,
32 delivery, movement, or installation of data processing

1 equipment, software, or services and telecommunications and
2 interconnect equipment, software, and services; (viii)
3 contracts for duplicating machines and supplies; (ix)
4 contracts for the purchase of natural gas when the cost is less
5 than that offered by a public utility; (x) purchases of
6 equipment previously owned by some entity other than the
7 district itself; (xi) contracts for repair, maintenance,
8 remodeling, renovation, or construction, or a single project
9 involving an expenditure not to exceed \$20,000 and not
10 involving a change or increase in the size, type, or extent of
11 an existing facility; (xii) contracts for goods or services
12 procured from another governmental agency; (xiii) contracts
13 for goods or services which are economically procurable from
14 only one source, such as for the purchase of magazines, books,
15 periodicals, pamphlets and reports, and for utility services
16 such as water, light, heat, telephone or telegraph; (xiv) where
17 funds are expended in an emergency and such emergency
18 expenditure is approved by 3/4 of the members of the board; and
19 (xv) State master contracts authorized under Article 28A of
20 this Code.

21 All competitive bids for contracts involving an
22 expenditure in excess of \$10,000 must be sealed by the bidder
23 and must be opened by a member or employee of the school board
24 at a public bid opening at which the contents of the bids must
25 be announced. Each bidder must receive at least 3 days' notice
26 of the time and place of the bid opening. For purposes of this
27 Section due advertisement includes, but is not limited to, at
28 least one public notice at least 10 days before the bid date in
29 a newspaper published in the district, or if no newspaper is
30 published in the district, in a newspaper of general
31 circulation in the area of the district. For competitive bids
32 for service contracts involving an expenditure in excess of
33 \$10,000, the bidder must disclose, before the public bid
34 opening, in an affidavit that becomes part of the bid, (1) any
35 charges filed against the bidder within the past 10 years
36 pursuant to the National Labor Relations Act, the Civil Rights

1 Act of 1964, or the Illinois Human Rights Act, the disposition
2 of those charges, and the current work status of the employees
3 who filed the charges; (2) any charges filed against the bidder
4 within the past 10 years related to bid-rigging or bid
5 manipulation under the Criminal Code of 1961; (3) any legal
6 claims pending against the bidder; (4) all workplace injuries
7 reported by employees within the past year and the current work
8 status of the employees who reported being injured; (5) all
9 employee turnover; (6) any units of government that have barred
10 the bidder or its affiliates from future bidding; (7) any
11 contributions given to the political campaigns of school board
12 members or any political action committee created for the
13 purpose of affecting policies related to a particular school
14 district or its students; (8) any gifts given to a prohibited
15 recipient under the State Officials and Employees Ethics Act,
16 the amount of the gift, and the name of the recipient; and (9)
17 any gifts or contributions given to non-profit organizations
18 established for the purpose of affecting a particular school
19 district or its students, such as a non-profit foundation or a
20 booster club. If the affidavit contains false or incomplete
21 information, the school district does not have to consider the
22 bid. If the school district chooses not to consider the bid,
23 the school district shall document this fact and make it
24 available for public inspection. State master contracts and
25 certified education purchasing contracts, as defined in
26 Article 28A of this Code, are not subject to the requirements
27 of this paragraph.

28 (b) To require, as a condition of any contract for goods
29 and services, that persons bidding for and awarded a contract
30 and all affiliates of the person collect and remit Illinois Use
31 Tax on all sales of tangible personal property into the State
32 of Illinois in accordance with the provisions of the Illinois
33 Use Tax Act regardless of whether the person or affiliate is a
34 "retailer maintaining a place of business within this State" as
35 defined in Section 2 of the Use Tax Act. For purposes of this
36 Section, the term "affiliate" means any entity that (1)

1 directly, indirectly, or constructively controls another
2 entity, (2) is directly, indirectly, or constructively
3 controlled by another entity, or (3) is subject to the control
4 of a common entity. For purposes of this subsection (b), an
5 entity controls another entity if it owns, directly or
6 individually, more than 10% of the voting securities of that
7 entity. As used in this subsection (b), the term "voting
8 security" means a security that (1) confers upon the holder the
9 right to vote for the election of members of the board of
10 directors or similar governing body of the business or (2) is
11 convertible into, or entitles the holder to receive upon its
12 exercise, a security that confers such a right to vote. A
13 general partnership interest is a voting security.

14 To require that bids and contracts include a certification
15 by the bidder or contractor that the bidder or contractor is
16 not barred from bidding for or entering into a contract under
17 this Section and that the bidder or contractor acknowledges
18 that the school board may declare the contract void if the
19 certification completed pursuant to this subsection (b) is
20 false.

21 (c) If the State education purchasing entity creates a
22 master contract as defined in Article 28A of this Code, then
23 the State education purchasing entity shall notify school
24 districts of the existence of the master contract.

25 (d) In purchasing supplies, materials, equipment, or
26 services that are not subject to subsection (c) of this
27 Section, before a school district solicits bids or awards a
28 contract, the district may review and consider as a bid under
29 subsection (a) of this Section certified education purchasing
30 contracts that are already available through the State
31 education purchasing entity.

32 (Source: P.A. 93-25, eff. 6-20-03; 93-1036, eff. 9-14-04.)

33 Section 99. Effective date. This Act takes effect upon
34 becoming law.